HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.26709 of 2001

Dated 4th day of July, 2007

Between:

Ayyappa Colony Residents Welfare Association,
Rep. by its General Secretary,
Ch.Raghuvardhan Reddy, Vikarabad ..
Petitioner

And

The Government of Andhra Pradesh,
rep. By its Principal Secretary, Municipal
Administration & Urban
Development Dept., Secretariat,
Hyderabad
and five others. ..
Respondents

O R D E R:

This writ petition is filed seeking a mandamus to declare the action of the 4th respondent in seeking to allot the open area admeasuring 1000 sq. yards in S.No.85 situated in Vikarabad Revenue village to the 5th respondent, as arbitrary and illegal, and consequently direct the respondents to protect the open area.

The case of the petitioner-association is that in the year 1981, the Gram Panchayat, Vikarabad approved Layout Plan No.132/81. In pursuance of the plan, about Ac.12.00 cents of land was developed into various plots. The purchasers of the plots in the layout named the colony as "Ayyappa Colony" wherein they constructed houses and are dwelling in them. Further, an open land of 1000 square yards on the northern side of the colony was earmarked for a park. As it is lying vacant, the residents of the colony themselves planted some trees in it and their children are using the land as a park. Now, the grievance of the petitioner-association is that the 4th respondent-Municipal Council is trying to allot the open land of an extent of 1000 sq. yards, which is meant for park, to the 5th respondent.

From a perusal of the counter affidavit filed on behalf of the 4th respondent, it is clear that the petitioner, in haste, has filed this writ petition. On a representation made by some individuals, the Chair-person of the Municipality placed the matter before the Council for allotment of the open land which was earmarked for public purpose and the Council passed a resolution to allot the entire open land for the

purpose of construction of a Church only with the approval of Director of Town and Country Planning, Hyderabad, but no approval has been sanctioned. It is also stated in the counter that the Municipality cannot grant permission for construction of a Church, but it is only the Collector, who is competent to grant permission.

Having heard the learned counsel for both the parties, this Court is of the view that though there is no approval from the competent authority for allotment of the open area to the 5th respondent, the petitioner, only on mere apprehension that a Church may be constructed in pursuance of the Resolution passed by the Municipal Council, has filed this writ petition. In fact, any open space earmarked for public purpose in the approved layout cannot be used for other purposes than the one for which it is meant.

Hence, the writ petition is misconceived and the same is dismissed. No costs.

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04.07.2007

bcj